

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                     |   |                                    |
|---------------------|---|------------------------------------|
| LANCE RUCKER,       | ) |                                    |
|                     | ) |                                    |
| Petitioner,         | ) | Civil Action No. 19 – 194          |
|                     | ) |                                    |
| v.                  | ) | Magistrate Judge Lisa Pupo Lenihan |
|                     | ) |                                    |
| ATTORNEY GENERAL OF | ) |                                    |
| PENNSYLVANIA,       | ) |                                    |
|                     | ) |                                    |
| Respondents.        | ) |                                    |
|                     | ) |                                    |

**ORDER**

The Petitioner in this matter has submitted for filing a document titled “Affidavit Deprivation of Rights Violation of Judge(s) Canon Laws Violation of ABA Standards, Prosecutions Functions Standards 3-24(a).” (ECF No. 1.) The Court has reviewed the filing but is unable to ascertain the relief that Petitioner is seeking. In it, he appears to complain about the conduct of Judge Donna Jo McDaniel and assert that she did not follow the directions of the Pennsylvania Superior Court when ruling on his criminal case PCRA Petition. He states that her conduct amounted to a federal crime in violation of 18 U.S.C. § 241, Conspiracy against rights, and § 242, Deprivation of rights under color of law. However, insofar as Petitioner has initiated this case in an attempt to bring charges against Judge McDaniel, the above referenced federal statutes are penal statutes and do not afford him with a private right of action.

Out of an abundance of caution, the undersigned instructed the Clerk of Court to open this matter as a habeas case, but it is unclear whether Petitioner is in fact attempting to challenge the legality of his detention pursuant to 28 U.S.C. § 2254. It may be that he is attempting to

assert a cause of action for a violation of his constitutional rights pursuant to 42 U.S.C. § 1983.

Therefore, this Court will permit Petitioner to make the choice of how he wants to proceed in this action.

Attached to this Order are a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 and a Prisoner Civil Rights Complaint pursuant to 42 U.S.C. § 1983. If Petitioner wishes to proceed with this action then he is ordered to complete one of these forms and return it to the Court within twenty-one (21) days of the date of this Order. Petitioner should be sure to include the instant case number on whichever form he chooses to return so that the Clerk will be aware to file it in this case.

Also attached to this Order is a Motion for Leave to Proceed *in forma pauperis*. Depending on what action Petitioner wants to file, he must either complete and return the enclosed Motion for Leave to Proceed *in forma pauperis*, or tender to the Clerk a statutory filing fee in the amount of \$400.00 (if filing a civil rights complaint) or \$5.00 (if filing a habeas petition). This action may not proceed unless Petitioner does one or the other. Therefore,

**IT IS HEREBY ORDERED** this 25th day of February, 2019 that the Clerk of Court mark this case **CLOSED**.

**IT IS FURTHER ORDERED** that Petitioner may submit the enclosed Motion to Proceed *in forma pauperis* if he cannot afford to pay the entire statutory filing fee and if that motion is granted, the case will be reopened.

**IT IS FURTHER ORDERED** that Petitioner may also reopen this case by paying the statutory filing fee in the amount of \$400.00 if he intends to complete and return the enclosed civil rights complaint, of \$5.00 if he intends to complete and return the enclosed habeas petition.

**AND IT IS FURTHER ORDERED** that the Petitioner is allowed fourteen (14) days from this date to appeal this order to a District Judge pursuant to Rule 72.C.2 of the Local Rules. Failure to appeal within fourteen (14) days may constitute waiver of the right to appeal.

/s/ Lisa Pupo Lenihan

Lisa Pupo Lenihan  
United States Magistrate Judge

cc: Lance Rucker  
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